

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:11-cv-00077-RWS
)	
AMEREN MISSOURI,)	
)	
Defendant.)	
)	

**PLAINTIFF UNITED STATES' MOTION FOR PROTECTIVE ORDER/
MOTION TO QUASH DEFENDANT'S SUBPOENA
TO THE ELECTRIC POWER RESEARCH INSTITUTE**

Plaintiff, United States of America, on behalf of the United States Environmental Protection Agency, respectfully moves this Court for a protective order and/or an order quashing, pursuant to Federal Rule of Civil Procedure 26(c) and (b)(2)(c), Defendant Ameren Missouri's deposition subpoena issued to third party Electric Power Research Institute ("EPRI"). Defendant issued the subpoena on September 19, 2014, on the last day of discovery (ECF No. 312), and has attempted to schedule the deposition out of time on October 28, 2014. As more fully stated in the accompanying memorandum, the topic identified in the subpoena has been the subject of extensive discovery in this case and Defendant has had ample time during the two and a half year discovery period to seek more, including from EPRI. But after the exchange of hundreds of thousands of documents, hundreds of pages of discovery responses, and roughly 70 depositions, discovery in this case has finally closed. Ameren's efforts to continue with discovery through its third party subpoena to EPRI should be quashed.

In accordance with Local Rule 37-3.04, counsel for the United States has conferred with counsel for Ameren by email and telephonically in a good faith attempt to resolve this dispute, but the parties were unsuccessful.

WHEREFORE, for the foregoing reasons and as more fully stated in the supporting memorandum filed with this motion, the United States respectfully requests that the Court issue a protective order preventing Defendant from seeking further discovery outside the case management deadlines set forth by the Court.

Respectfully submitted,

SAM HIRSCH
Acting Assistant Attorney General
Environment and Natural Resources Division

s/Andrew C. Hanson
Andrew C. Hanson
Bradford T. McLane
Elias Quinn
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Telephone: (202) 514-9859
Facsimile: (202) 616-6584
Andrew.hanson2@usdoj.gov

Suzanne Moore
Andrew Lay
Assistant United States Attorneys
United States Attorney's Office
Eastern District of Missouri
Thomas Eagleton U.S. Courthouse
111 South 10th Street, 20th Floor
St. Louis, Missouri 63102
Telephone: (314) 539-2547
Facsimile: (314) 539-2309
E-mail: Suzanne.Moore@usdoj.gov

OF COUNSEL:

SEEMA KAKADE

Attorney-Advisor

U.S. EPA, Air Enforcement Division

1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

ALEX CHEN

Senior Counsel

Office of Regional Counsel

U.S. EPA, Region 7

11201 Renner Blvd.

Lenexa, KS 66219

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2014, I served the foregoing with the Clerk of Court using the CM/ECF system, which will cause an electronic copy to be served on counsel of record, who are listed below:

Ronald S. Safer (pro hac vice)
Patricia Brown Holmes (pro hac vice)
Renee Cipriano (pro hac vice)
Steven J. Bonebrake (pro hac vice)
Matthew B. Mock (pro hac vice)
Schiff Hardin LLP
233 South Wacker Drive Suite 6600
Chicago, Illinois 60606
Phone: (312) 258-5500
Fax: (312) 258-5600

James J. Virtel
Armstrong Teasdale LLP
7700 Forsyth Boulevard Suite 1800
St. Louis, Missouri 63105
Phone: (314) 621-5070
Fax: (314) 612-2298
jvirtel@armstrongteasdale.com

Counsel for Defendant Ameren Missouri

s/Andrew C. Hanson
Andrew C. Hanson